

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 4, 2011
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: April 21, 2011

RE: Closed Session of the Board to be held on May 4, 2011

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISION OF ADMINISTRATIVE LAW JUDGE:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221
2. L & S CONSTRUCTION, 10-R3D1-1821 AND 1822
3. UNITE STEEL INDUSTRIES, INC., 10-R6D2-1109 THROUGH 1112

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. A. C. TRUCKING, INC., 09-R2D4-0442 AND 0443
2. ADVANCE PIPE BENDING & FABRICATING COMPANY, 10-R4D2-4112

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THROUGH 4114

3. ADVANCED SEALING AND SUPPLY COMPANY, 11-R3D5-0530
4. AMWAN, INC. DBA LA BABY, 10-R3D6-2976 THROUGH 2980
5. B. C. BLASTING, 09-R2D1-4271 THROUGH 4274
6. RUBEN BARRAGAN DBA J & R AUTOBODY & PAINT,
10-R6D5-1341 AND 1342
7. BASQUE AMERICAN DAIRY, 10-R3D3-3756
8. BAY AREA HIGH REACH, INC., 10-R2D2-0075 THROUGH 0077
9. BRONCO WINE COMPANY, 10-R2D4-0163 AND 0164
10. CA DEPARTMENT OF TRANSPORTATION (CALTRANS), 10-R2D4-0349
11. SILVIA CASTRO, MIGUEL CASTRO DBA SILVIA CASTRO FLC,
09-R2D4-19-00
12. CITY OF ESCONDIDO – FIRE DEPARTMENT, 11-R3D2-0355
13. COLD STEEL ERECTORS, INC., 10-R2D2-0078
14. COLUMBUS FOODS, 10-R6D3-0192 AND 0193
15. CON-WAY FREIGHT, INC., 11-R3D3-0592
16. CRAWFORD CONTRACTORS CORPORATION, 10-R3D1-3831
17. DIVERSIFIED ASPHALT PRODUCTS, INC., 10-R3D1-3779
18. DOUGLAS E. BARNHART, INC., 10-R3D6-3595
19. LEONARDO DUARTE DBA LEO'S PALLETS, 10-R6D5-1122 THROUGH 1124
20. ESL POWER SYSTEMS, 10-R3D3-3980 AND 3981
21. FRONTIER SEMICONDUCTOR, 10-R1D2-0261
22. RUBEN M. GARCIA DBA RUBEN M. GARCIA FLC, 09-R2D1-3435 AND 3436
23. JJ CHARLES, INC. DBA USED PALLET CO., 09-R6D7-3819

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24. KENCO LOGISTIC SERVICES LLC, 11-R3D3-0107
25. MARSHALL'S MA, INC. - DIV. OF TJX COMPANIES, INC., 09-R1D2-2638
AND 2639
26. MILES CHEMICAL COMPANY, INC., 10-R3D1-3780
27. MONTELLI CONSTRUCTION CORP., 09-R1D5-4008
28. YOUKO A. MURATA DBA HORIZON GROWERS, 11-R3D3-0358
29. DAVID MURPHY DBA MURPHY FAMILY TRUST OF 1994, 10-R6D5-3769
30. O.C. PARTNERS LLC DBA WATERMARC RESTAURANT, 10-R3D1-3979
31. SANYO SOLAR USA LLC, 11-R3D5-0553
32. DANIEL/DANNY SHALOM, 10-R4D1-2251 AND 2252
33. SILICON CONCEPTS, 10-R1D2-0123
34. SIR MIX CONCRETE PRODUCTS, 11-R3D5-0418 THROUGH 0422
35. SONORA REGIONAL MEDICAL CENTER, 10-R2D4-0162
36. STAFFING NETWORK LLC, 10-R2D4-2744
37. STATE OF CALIFORNIA DEPARTMENT OF FORESTRY & FIRE,
08-R5D1-3965 AND 3966
38. TIN, INC. DBA TEMPLE INLAND, INC., 10-R3D6-3404
39. UNLIMITED PLASTICS, INC., 10-R3D3-3636 AND 3637
40. VALLEY LAWN SERVICE, 09-R2D5-3768
41. WINDSOR QUALITY FOOD COMPANY LTD DBA WINDSOR FOODS, 10-
R3D3-3856 AND 3857

ORDERS DISMISSING APPEALS:

1. ALLEN TEMPLE HOUSING & ECONOMIC DEVELOPMENT CORP. DBA DR.
J. ALFRED SMITH, SR. TRAINING ACADEMY, 09-R1D4-2397
2. AMERICUR LOGISTICS LLC, 10-R6D5-2991

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3. BNB ENGINEERING, INC., 10-R6D5-2924
4. CHRISTINE LAN & SERGIO PEREZ DBA SERG AUTO BODY, 10-R6D7-0387 AND 0388

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. LUIS CUEVA MICHEL FLC, 11-R2D1-9068

ORDER ON REMAND:

1. ECU, INC., 09-R3D5-1094 AND 1095

ORDER ON REMAND TO AMENDED ORDER:

1. KOOSHAREM CORPORATION DBA SELECT REMEDY AND SELECT STAFFING, 08-R2D5-0048 THROUGH 0050

STIPULATION:

1. ALFONSO TREVINO LEGUIA, 09-R1D1-0737 THROUGH 0740

PETITIONS FOR RECONSIDERATION:

1. GATEWAY FRAMING, INC., 10-R2D3-1392
2. MAPLE GROVE GLUTEN FREE FOODS, INC., 10-R3D3-3208 AND 3209
3. MAPLE GROVE GLUTEN FREE FOODS, INC., 10-R3D3-3210 THROUGH 3216
4. ROSS PLASTERING, INC., 10-R3D1-2401

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
5. ALT'S TOOL & MACHINE, 10-R6D2-2986 AND 3266

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6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ANNING-JOHNSON COMPANY, 06-R1D3-1976
8. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
9. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
10. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO.,
09-R6D2-2239 THROUGH 2241
11. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
12. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
13. BURTON L. SILVA FARMS, 09-R1D2-1498
14. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
15. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
16. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
17. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
18. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
19. CLINE CELLARS, INC., 08-R1D5-2946
20. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
21. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
22. COMMERCIAL METAL FORMING, 09-R3D1-1592
23. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
24. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
25. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
26. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
27. JOSEFF-HOLLYWOOD, 09-R6D2-3914 THROUGH 3919

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28. DESIGN BUILDERS, INC., 08-R4D4-1901
29. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
30. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
31. DUKE PACIFIC, INC., 08-R3D3-574
32. DUININCK BROS., INC., 06-R4D3-2871
33. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
34. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
35. EZ MIX, INC., 08-R4D3-1898
36. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
37. FORTUNA IRON WORKS 06-R2D3-4222
38. G.T. ALDERMAN, INC., 05-R4D3-3513
39. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
40. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
41. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3678
42. HB PARKCO, 07-R4D2-1730 AND 1731
43. THE HERRICK CORP., 07-R3D1-495
44. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
45. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
46. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
47. JENSEN PRECAST, 05-R2D1-2377
48. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
49. KELLY SERVICES, INC., 06-R1D2-1024
50. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014

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51. LA MINA CANTINA, 09-R2D5-0039
52. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
53. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
54. LION RAISINS, INC., 08-R2D5-2253 AND 2254
55. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
56. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
57. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
58. MARINE TERMINALS, 08-08-R6D2-1920
59. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
60. MILLENIUM GENERATION, INC., 08-R4D3-5047
61. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
62. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
63. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
64. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
65. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
66. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
67. POUK & STEINLE, INC., 09-R3D3-0491
68. R & L BROSAMER, INC., 03-R1D5-4832
69. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
70. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
71. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
72. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
73. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514

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- 74. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
- 75. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
- 76. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
- 77. SMUD, 08-R2D1-4887 THROUGH 4889
- 78. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
- 79. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
- 80. STACY & WITBECK, INC., 05-R1D1-1142
- 81. SUNOPTA FRUIT GROUP, 09-R3D1-9245
- 82. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
- 83. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
- 84. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
- 85. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
- 86. UNITED PARCEL SERVICE, 07-R3D3-3322
- 87. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 88. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

- 1. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
- 2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)

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3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
4. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
5. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
6. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
7. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
8. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
9. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
10. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
11. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
12. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
13. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
14. SMUD, 34-2010-80000723 (08-R2D1-4887)
15. CAL ENERGY OPERATING CORP., 34-2010-80000735 (09-R3D2-3675 & 3676)
16. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
17. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
18. RATTO BROS., INC., 663050 (10-R6D3-9291)

COURT OF APPEAL

1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

LEGISLATION

(Review and discuss current legislation which may affect the Appeals Board)

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1. SENATE BILL 829

PERSONNEL:

(Issues regarding staff)

Any matter not completed at this Closed Session may be continued to subsequent meetings.